**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**WRIT PETITION No. 23427 of 2007**

**Dated: 06.11.2007**

Between:

Polu Veerasham
& others.

... Petitioners

AND

Government of A.P., rep., by its
Secretary, General Administration Dept.,
Secretariat, Hyderabad & others.

... Respondents

Counsel for the petitioners : Sri Mohd. Asifuddin

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

**THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY**

**WRIT PETITION No. 23427 of 2007**

**ORDER:-**

This writ petition is filed for a writ of mandamus to declare the land acquisition proceedings taken out by the respondents by issuing notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') by dispensing with enquiry under Section 5-A of the Act to the extent it relates to the lands of the petitioners, as illegal and arbitrary.

The petitioners claim to be the owners of certain lands in Sy.No.237 situated in Nampally Village, Vemulawada Mandal, Karimnagar District, having purchased the same under registered sale deeds. Respondent No.3 issued notification dated 07.06.2007 under Section 4(1) of the Act and the same was published on 08.06.2007 in the Gazette. The petitioners mainly questioned these acquisition proceedings on the ground that dispensing with the enquiry under Section 5-A of the Act for the purpose of rehabilitating the displaced families of Anupuram village of Vemulawada Mandal, Karimnagar District under Mid Manair Reservoir project, is not warranted.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Land Acquisition.

The notification under Section 4(1) of the Act indicates that the purpose of acquisition is to rehabilitate the displaced families

under Mid Manair Reservoir project.

In my view, the State cannot bypass the normal statutory procedure under the provisions of the Act while exercising the power of eminent domain to forcibly take away the properties belonging to the citizens unless holding of enquiry does not brook delay. The procedure ordinarily to be followed for acquisition of lands is to hold an enquiry under Section 5-A of the Act after the publication of notification under Section 4(1) of the Act and it is only in emergent situations that this procedure is dispensed with by invoking urgency clause envisaged under Section 17 (4) of the Act.

The purpose of rehabilitation of displaced persons by providing them with house sites is not of that emergent in nature, which does not brook the delay of holding enquiry and warranting dispensing with of enquiry under Section 5-A of the Act. Therefore, the respondents are directed to hold enquiry under Section 5-A of the Act. Since it is not clear from material available on record whether Section 6 declaration is already published or not, if the declaration under Section 6 of the Act is published, the same stands set aside and the respondents shall, before proceeding further, hold an enquiry under Section 5-A of the Act by giving opportunity to the petitioners to put forth their objections and consider and dispose of the same.

Subject to the above, the writ petition is disposed of.

As a sequel to disposal of the writ petition, WPMP.No.30673 of 2007 filed by the petitioners for interim relief is disposed of as infructuous.

_____

**C.V. NAGARJUNA REDDY, J**

Date: 06.11.2007

Note:- Issue CC by tomorrow.
B/o.
ES